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BEFORE THE POLLUTION CONTROL BOARD JUL 21 2003  
OF THE STATE OF ILLINOIS

STATE OF ILLINOIS  
Pollution Control Board

ILLINOIS STATE TOLL HIGHWAY )  
AUTHORITY (Belvidere North CAP), )  
Petitioner, )  
v. )  
ILLINOIS ENVIRONMENTAL )  
PROTECTION AGENCY, )  
Respondent. )

PCB No. 04- 11  
(UST Appeal – Ninety Day Extension)

NOTICE

Dorothy M. Gunn, Clerk  
Illinois Pollution Control Board  
James R. Thompson Center  
100 West Randolph Street  
Suite 11-500  
Chicago, IL 60601

Kenneth W. Funk  
Deutsch, Levy & Engel  
225 West Washington Street  
Suite 1700  
Chicago, IL 60606

PLEASE TAKE NOTICE that I have today filed with the office of the Clerk of the Pollution Control Board a REQUEST FOR NINETY DAY EXTENSION OF APPEAL PERIOD, copies of which are herewith served upon you.

Respectfully submitted,

ILLINOIS ENVIRONMENTAL PROTECTION AGENCY,  
Respondent



John J. Kim  
Assistant Counsel  
Special Assistant Attorney General  
Division of Legal Counsel  
1021 North Grand Avenue, East  
P.O. Box 19276  
Springfield, Illinois 62794-9276  
217/782-5544  
217/782-9143 (TDD)  
Dated: July 18, 2003




3. The additional time requested by the parties may eliminate the need for a hearing in this matter or, in the alternative, allow the parties to identify issues and limit the scope of any hearing that may be necessary to resolve this matter.

WHEREFORE, for the reasons stated above, the parties request that the Board, in the interest of administrative and judicial economy, grant this request for a ninety-day extension of the thirty-five day period for petitioning for a hearing.

Respectfully submitted,

ILLINOIS ENVIRONMENTAL PROTECTION AGENCY,  
Respondent

  
\_\_\_\_\_

John J. Kirk  
Assistant Counsel  
Special Assistant Attorney General  
Division of Legal Counsel  
1021 North Grand Avenue, East  
P.O. Box 19276  
Springfield, Illinois 62794-9276  
217/782-5544  
217/782-9143 (TDD)  
Dated: July 18, 2003



ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

1021 NORTH GRAND AVENUE EAST, P.O. BOX 19276, SPRINGFIELD, ILLINOIS 62794-9276
JAMES R. THOMPSON CENTER, 100 WEST RANDOLPH, SUITE 11-300, CHICAGO, IL 60601

ROD R. BLAGOJEVICH, GOVERNOR RENEE CIPRIANO, DIRECTOR

217/782-6762

CERTIFIED MAIL

7002 3150 0000 1223 2255

JUN 13 2003

Illinois State Toll Highway Authority
John R. Wagner, P.E.
2700 Ogden Avenue
Downers Grove, Illinois 60515

RECEIVED

JUN 17 2003

CHIEF ENGINEER

Re: LPC #0070057092 - Boone County
Belvidere/ Illinois State Toll Highway Authority
Belvidere Oasis (North Side)
LUST Incident No. 890112, 892215, 941815 and 20021277
LUST Technical File

RECEIVED
JUN 19 2003
LEGAL DEPARTMENT

Dear Mr. Wagner:

The Illinois Environmental Protection Agency (Illinois EPA) has reviewed the High Priority Corrective Action Plan (plan) submitted for the above-referenced incident. This plan, dated April 8, 2003, was received by the Illinois EPA on April 14, 2003. Citations in this letter are from the Environmental Protection Act (Act) and 35 Illinois Administrative Code (35 Ill. Adm. Code).

Pursuant to Section 57.7(c)(4) of the Act and 35 Ill. Adm. Code 732.405(c), the plan is modified. The following modifications are necessary, in addition to those provisions already outlined in the plan, to demonstrate compliance with Title XVI of the Act and 35 Ill. Adm. Code 732:

- A. The Agency will not approve the cost for pumping and disposal of groundwater. Your report proposes to restrict groundwater use on site. This activity would be considered excessive.
B. Your plan states that you will excavate until Inhalation levels for the Construction Worker scenario have been met. The Agency is modifying this to include Inhalation and Ingestion values for soils under Industrial/ Commercial properties.

Please note that all activities associated with the remediation of this release proposed in the plan must be executed in accordance with all applicable regulatory and statutory requirements, including compliance with the proper permits.

In addition, the budget for the High Priority Corrective Action Plan is modified pursuant to Section 57.7(c)(4) of the Act and 35 Ill. Adm. Code 732.405(c). Based on the modifications listed in Section 2 of Attachment A, the amounts listed in Section 1 of Attachment A are approved. Please note that the costs must be incurred in accordance with the approved plan. Be aware that the amount of reimbursement may be limited by Sections 57.8(e), 57.8(g) and 57.8(d) of the Act, as well as 35 Ill. Adm. Code 732.604, 732.606(s), and 732.611.

Please note that, if the owner or operator agrees with the Illinois EPA's modifications, submittal of an

ROCKFORD - 4302 North Main Street, Rockford, IL 61103 - (815) 987-7760
DES PLAINES - 9511 W. Harrison St., Des Plaines, IL 60016 - (847) 294-4000
ELGIN - 595 South State, Elgin, IL 60123 - (847) 608-3131
PEORIA - 5415 N. University St., Peoria, IL 61614 - (309) 693-5463
BUREAU OF LAND - PEORIA - 7620 N. University
Champaign, IL 61820 - (217) 276-5800
SPRINGFIELD - 4500 S. Sixth Street Rd., S
Moline, IL 62234 - (618) 346-5120

A

Page 2

amended plan and/or budget, if applicable, is not required (Section 57.7(c)(4) of the Act and 35 Ill. Adm. Code 732.503(f)). Additionally, pursuant to Section 57.8(a)(5) of the Act and 35 Ill. Adm. Code 732.405(e), if reimbursement will be sought for any additional costs that may be incurred as a result of the Illinois EPA's modifications, an amended budget must be submitted.

NOTE: Amended plans and/or budgets must be submitted and approved prior to the issuance of a No Further Remediation (NFR) Letter. Costs associated with a plan or budget that have not been approved prior to the issuance of an NFR Letter will not be reimbursable.

All future correspondence must be submitted to:

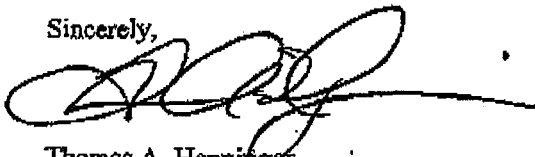
Illinois Environmental Protection Agency  
Bureau of Land - #24  
Leaking Underground Storage Tank Section  
1021 North Grand Avenue East  
Post Office Box 19276  
Springfield, IL 62794-9276

Please submit all correspondence in duplicate and include the Re: block shown at the beginning of this letter.

An underground storage tank system owner or operator may appeal this decision to the Illinois Pollution Control Board. Appeal rights are attached.

If you have any questions or need further assistance, please contact Donna Wallace at 217/ 524-1283.

Sincerely,



Thomas A. Henniger  
Unit Manager  
Leaking Underground Storage Tank Section  
Division of Remediation Management  
Bureau of Land

TAH:DW:dwl

Attachment: A

c: Wight & Company  
Division File

**Appeal Rights**

An underground storage tank owner or operator may appeal this final decision to the Illinois Pollution Control Board pursuant to Sections 40 and 57.7(c)(4)(D) of the Act by filing a petition for a hearing within 35 days after the date of issuance of the final decision. However, the 35-day period may be extended for a period of time not to exceed 90 days by written notice from the owner or operator and the Illinois EPA within the initial 35-day appeal period. If the owner or operator wishes to receive a 90-day extension, a written request that includes a statement of the date the final decision was received, along with a copy of this decision, must be sent to the Illinois EPA as soon as possible.

For information regarding the filing of an appeal, please contact:

Dorothy Gunn, Clerk  
Illinois Pollution Control Board  
State of Illinois Center  
100 West Randolph, Suite 11-500  
Chicago, IL 60601  
312/814-3620

For information regarding the filing of an extension, please contact:

Illinois Environmental Protection Agency  
Division of Legal Counsel  
1021 North Grand Avenue East  
Post Office Box 19276  
Springfield, IL 62794-9276  
217/782-5544

Allen:  
John Kim, Esq.  
217 792 9907

Attachment A

Re: LPC # 0070057092 - Boone County  
Belvidere/ Illinois State Toll Highway Authority  
Belvidere Oasis (North Side)  
LUST Incident No. 890112, 892215, 941815 and 20021277  
LUST Technical File

Citations in this attachment are from the Environmental Protection Act (Act) and 35 Illinois Administrative Code (35 Ill. Adm. Code).

**SECTION 1**

As a result of the Illinois EPA's modification(s) in Section 2 of this Attachment A, the following amounts are approved:

\$5,396.50	Investigation Costs
\$2,478.50	Analysis Costs
\$14,830.00	Personnel Costs
\$1,500.00	Equipment Costs
\$139,089.74	Field Purchases and Other Costs
\$7,816.30	Handling Charges

**SECTION 2**

- A. \$54,291.96 for an adjustment in well abandonment charges, mobilization charges, turn-a-round time charges; pH sample costs, excessive personnel hours and costs of soil removal. The Illinois EPA has determined that these costs are not reasonable as submitted (Section 57.7(c)(4)(C) of the Act and 35 Ill. Adm. Code 732.606(hh)). One of the overall goals of the financial review is to assure that costs associated with materials, activities, and services are reasonable (35 Ill. Adm. Code 732.505(e)). Please note that additional information and/or supporting documentation may be provided to demonstrate the costs are reasonable.
- B. \$58,200.00 for an adjustment in water removal costs. Costs for investigative activities and related services or materials for developing a High Priority corrective action plan that are unnecessary or inconsistent with generally accepted practices or unreasonable costs for justifiable activities, materials, or services are ineligible for payment from the Fund (35 Ill. Adm. Code 732.606(cc)).
- C. \$1,883.14 for an adjustment in handling charges. Handling charges are eligible for payment only if they are equal to or less than the amount determined by the following table (Section 57.8(g) of the Act and 35 Ill. Adm. Code 732.607):

Subcontract or Field Purchase Cost:	Eligible Handling Charges as a Percentage of Cost:
\$0 - \$5,000	12%
\$5,001 - \$15,000	\$600 plus 10% of amount over \$5,000
\$15,001 - \$50,000	\$1,600 plus 8% of amount over \$15,000
\$50,001 - \$100,000	\$4,400 plus 5% of amount over \$50,000
\$100,001 - \$1,000,000	\$6,900 plus 2% of amount over \$100,000

Handling charges were adjusted to meet budget modifications.

DW:dwl

EARL A. DEUTSCH  
PAUL M. LEVY  
TERRY L. ENGEL  
FRANK R. COHEN  
JERRY I. RUDMAN  
MICHAEL J. DEVINE  
STUART BERKS  
KENNETH W. FUNK  
PHILLIP J. ZISOOK  
DENNIS E. FRISBY  
STEVEN B. ISAACSON  
ALVIN J. HELFGOT  
JOEL A. STEIN  
BRIAN D. SAUCIER  
JAMES E. O'HALLORAN  
AARON B. ZARKOWSKY  
KAREN KAVANAGH MACK  
GREGG A. GAROFALO  
JEFFREY B. HORWITZ  
MOYENDA MUTHARIKA KNAPP  
DAVID J. BEN-DOV

LAW OFFICES

## DEUTSCH, LEVY & ENGEL

CHARTERED

SUITE 1700

225 WEST WASHINGTON STREET

CHICAGO, ILLINOIS 60606

(312) 346-1460

E-mail: lawyers@dlc.com  
Website: www.dlec.com  
FACSIMILE: (312) 346-1868

COUNSEL  
MARSHALL D. KROLICK  
ARTHUR J. SABIN

July 10, 2003

**VIA FACSIMILE 217-782-9807  
AND REGULAR MAIL**

Illinois Environmental Protection Agency  
Division of Legal Counsel  
1021 North Grand Avenue East  
P.O. Box 19276  
Springfield, Illinois 62794-9276  
Attention: John Kim, Esq.

**Re: LPC #0070057092 - Boone County;  
Belvidere/Belvidere Oases (North Side)  
LUST Incident Nos. 890112, 892215, 941815 and 20021277**

Dear Mr. Kim:

The undersigned, as a Special Assistant Attorney General, represents the Illinois State Toll Highway Authority in connection with the referenced LUST Incidents. I have received a copy of the Agency's letter, dated June 13, 2003, modifying the Authority's Corrective Action Plan and Budget previously submitted to the Agency. A copy of that letter is enclosed.

Please be advised that the Authority does not agree with the Agency's position as set forth in its letter of June 13, 2003; however, in hopes of resolving the open issues with the Agency, and avoiding the necessity of an appeal to the Illinois Pollution Control Board, our client hereby requests an extension, pursuant to Sections 40 and 57.8 of the Illinois Environmental Protection Act, to extend the period within which it may appeal the Agency's decision for an additional ninety (90) days.

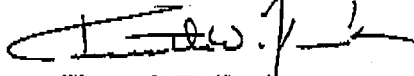
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It is our understanding that upon receipt of this letter you will proceed to prepare the necessary motion for filing with Illinois Pollution Control Board to effectuate the extension. If your understanding is other than as indicated herein or if I can provide any further information, please let us know immediately.

Your assistance and cooperation is appreciated.

Very truly yours,



Kenneth W. Funk

KWF/alj  
Enclosures  
cc: Victor Azar, Esq.  
Ms. Mary Kruk

- 161791.1

2177829807 P.03/07

DEUTSH LEVY & ENGERI CHARTERED

#6891 P.003/007

2177829807

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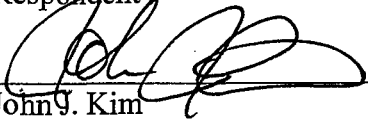
**CERTIFICATE OF SERVICE**

I, the undersigned attorney at law, hereby certify that on July 18, 2003, I served true and correct copies of a REQUEST FOR NINETY DAY EXTENSION OF APPEAL PERIOD, by placing true and correct copies in properly sealed and addressed envelopes and by depositing said sealed envelopes in a U.S. mail drop box located within Springfield, Illinois, with sufficient First Class postage affixed thereto, upon the following named persons:

Dorothy M. Gunn, Clerk  
Illinois Pollution Control Board  
James R. Thompson Center  
100 West Randolph Street  
Suite 11-500  
Chicago, IL 60601

Kenneth W. Funk  
Deutsch, Levy & Engel  
225 West Washington Street  
Suite 1700  
Chicago, IL 60606

ILLINOIS ENVIRONMENTAL PROTECTION AGENCY,  
Respondent

  
\_\_\_\_\_  
John G. Kim  
Assistant Counsel  
Special Assistant Attorney General  
Division of Legal Counsel  
1021 North Grand Avenue, East  
P.O. Box 19276  
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